THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.26533 of 2006

Dated 20th December 2006

Between :-

Smt. J.Susheela .. Petitioner

And

The Commissioner.
Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad and another .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.26533 of 2006

ORDER:-

1. The matter is coming up for *admission.*

2. Heard Sri Y.Sudershan Reddy, the learned Counsel representing the petitioner and Sri Ghanta Rama Rao, the learned standing Counsel representing respondents 1 and 2.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of respondents 1 and 2 in threatening to demolish the petitioner's house bearing Municipal No.1-7-630/23/A admeasuring 75 sq.yards situated in Gemini Colony, Zamistanpur, Hyderabad, by virtue of the impugned notices dated 1-12-2006 and 18-12-2006 as illegal, arbitrary and against principles of natural justice and pass such other suitable orders.

4. It is pointed out that the said impugned notices had been issued to one Kankanala Srinivas, not to the writ

petitioner. Several factual details are narrated in para 2 and further details are narrated in paras 3, 4, 5 and 6 of the affidavit filed in support of the Writ Petition and further specific stand is taken that for her legal necessity, the petitioner had sold a portion of the house admeasuring 45 square yards out of 120 square yards to one Sri. Kanakanala Srinivas through a registered sale deed vide Doc.No.3413 of 2006 and retained the remaining premises admeasuring 75 square yards. Further specific stand is taken that without conducting proper enquiry, the Municipal Corporation of Hyderabad issued notices under Section 452 and Section 636 of Hyderabad Municipal Corporation Act 1955 in the name of the neighbour the aforesaid K. Srinivas alleging that there is un-authorized construction and violated G.O.Ms.No.86 MA, dt.3-3-06 and G.O.Ms.No.141 MA dated 19-4-2006 regarding open spaces. It is also further stated that as per G.O.Ms.No.423 dated 31-7-1998 clause 1, 1A, no prior permission is necessary for construction on 100 square meters and further with regard to leaving of set-backs as per Amended-Table III in Rule 7.1 of G.O.Ms.No.86 M.A., dated

3-3-2006, except front side, the petitioner need not leave set-backs on the remaining areas. It is stated that inasmuch as the petitioner owning only 75 square yards

of land and she had left set-back on the front side. It is also stated that the petitioner had not violated the said G.Os. Further specific stand is taken that without verifying the title deeds of the petitioner, in a routine way the impugned notices had been served on a wrong person.

In the facts and circumstances, inasmuch as no notice as such had been issued in the name of Smt.J.Susheela, the present writ petitioner, the impugned notices, so far as the petitioner property is concerned, are hereby set aside and it is needless to say that the respondents are at liberty to issue notices afresh, if in the facts and circumstances, they require to do so.

Giving the aforesaid liberty, the Writ Petition is allowed to the extent indicated above. No order as to costs.

(**P.S. NARAYANA, J)**

Dated 20th December2006
Note:- C.C. by 21-12-2006
(B/o. mrb/Smr)